

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05-cr-390

UNITED STATES OF AMERICA)
)
)
vs.)
)
DEMORRIS TYRESE ALLEN (10))
)

ORDER

THIS MATTER is before the Court upon motions of the defendant for a reduction of sentence based on the retroactive amendments to the United States Sentencing Guidelines relating to crack cocaine triggered by the Fair Sentencing Act of 2010 (Doc. Nos. 432, 463, 470) and the government's response (Doc. No. 472).

The defendant was found guilty of conspiracy to possess at least 5 grams of cocaine base with intent to distribute (Count One). (Doc. No. 266: Verdict). At sentencing, the Court determined that the amount of crack cocaine reasonably foreseeable to the defendant was at least 510 grams. (Doc. No. 311: Statement of Reasons (SOR) at 1; Presentence Report (PSR) at ¶ 12). The resulting offense level of 36 was increased by 2 for weapon possession. (PSR at ¶¶ 18,19). Combined with a criminal history category of IV, the resulting advisory guideline range was 324-405 months. (Doc. No. 311: SOR at 1). The Court imposed a sentence of 324 months, the low end of the range. (Doc. No. 310: Judgment at 2).

Under the most recent amendments to the guidelines, the offense level for possessing at least 510 grams of cocaine base is 32. USSG Supp. to Appx. C., Amend. 750 (2011). The addition of 2 levels for weapon possession, results in a total offense level of 34. The amended guideline range, given a criminal history category of IV, is 210-262 months. The defendant seeks, and the government consents to, a sentence of 210 months.

Consistent with 18 U.S.C. § 3582(c)(2), the Court has considered the factors set forth in 18 U.S.C. § 3553(a), as well as the defendant's post-sentence conduct and the public's safety.

Based on these factors, the Court finds that a reduction of the defendant's sentence would accomplish the goals of sentencing.

IT IS, THEREFORE, ORDERED that the defendant's motion is **GRANTED** and the defendant's sentence for Count One is reduced to 210 months. All other conditions remain unchanged.

IT IS FURTHER ORDERED that, if the defendant is released from imprisonment without a residential plan accepted by the United States Probation Office, the defendant shall submit to the local Residential Reentry Center for a period not to exceed 90 days, with work release, at the direction of the U.S. Probation Office, as a condition of supervised release.

The Clerk is directed to certify copies of this Order to the defendant, counsel for the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: April 23, 2012



Robert J. Conrad, Jr.
Chief United States District Judge

